

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

October 8, 2009

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, October 8, 2009, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: G. Nelson Van Fleet, Chair; Debra Miller Stevens, Vice Chair; David Dennis; Darrell Downing; Shawn Farney; David Foster; Bud Hentzen; Hoyt Hillman; Bill Johnson; Joe Johnson; John W. McKay Jr. ; M.S. Mitchell and Don Sherman (In @1:38 P.M.). Ronald Marnell was absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Derrick Slocum, Associate Planner; Bob Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

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1. Approval of the September 24, 2009 MAPC meeting minutes:

MOTION: To approve the September 24, 2009 minutes as amended.

J. JOHNSON moved, **HILLMAN** seconded the motion, and it carried (11-0-1).

MCKAY - Abstained

2. CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS

- 2-1. **SUB 2009-61: One-Step Final Plat -- RENTALS SALES ESTATE ADDITION**, located on the east side of Seneca and south of 47th Street South.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department advises that water and sewer services are available to serve the site. An existing 20-foot sewer easement needs to be denoted on the plat.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Engineering requests a drainage easement.
- D. Traffic Engineering has approved the access controls. The plat proposes one opening along Seneca.
- E. Traffic Engineering has requested dedication of 20-foot additional right-of-way along Seneca. A 60-foot half-street right-of-way is required by the Access Management Regulations.
- F. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed

information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.

- G. On the final plat tracing, the MAPC signature block needs to reference "G. Nelson Van Fleet" as Chairman.
- H. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width.
- I. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- J. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send the information via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, **HILLMAN** seconded the motion, and it carried (12-0).

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2009-34: City request to vacate a portion of a platted setback.

OWNER/APPLICANT: Darren M Oeding

LEGAL DESCRIPTION: The south 3 feet of the platted 15-foot street side yard setback that runs parallel to the north lot line of Lot 20, Block F, Gary's 4th Addition and the south side of the 36th Street South right-of-way, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located on the southeast corner of Dugan Road and 36th Street South (WCC #IV)

REASON FOR REQUEST: Build a detached accessory structure

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned SF-5 Single-family Residential ("SF-5").

The applicant proposes to vacate the south 3 feet of the platted 15-foot setback on the SF-5 zoned corner lot, thus making a 12-foot street side yard setback. This setback runs parallel to the north lot line of Lot 20, Block F, Gary's 4th Addition and the south side of the 36th Street South right-of-way (ROW). The Unified Zoning Code (UZC) has a 15-foot minimum street side yard setback for the SF-5 zoning district. Per the UZC (Art.III, Sec.III-E, e (6)), the short side of a corner lot shall have the front yard setback. The short side of this lot is the Dugan Avenue side. If this was not a platted setback, but the UZC's 15-foot minimum street side yard setback for the SF-5 zoning district, the applicant could have applied for an Administrative Adjustment. The adjustment would reduce the UZC's 15-foot minimum street side yard setback by 20%; resulting in a 12-foot setback, which is what the applicant is requesting. There are no platted easements within the platted setback. There are no utilities, manholes, sewer or water lines within the described portion of the platted setback. The Gary's 4th Addition was recorded with the Register of Deeds May 20, 1988.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted setback.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time September 17, 2009, which was at least 20 days prior to this public hearing.
 - 2. That no private rights will be injured or endangered by the vacation of the described portion of the platted street side yard setback and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be granted.

Considerations (but not limited to) associated with the request to vacate the described portion of the platted street side yard setback been identified, therefore, the vacation of the portion of the platted street side yard setback described in the petition should be approved with conditions:

- (1) Vacate the south 3 feet of the platted 15-foot setback that runs parallel to the north lot line of Lot 20, Block F, Gary's 4th Addition and the south side of the 36th Street South ROW. The approved legal description of the vacated portion of the platted setback, will only be where the proposed attached garage will be located, this will preserve the remaining platted 15-foot setback that runs parallel to the north lot line of Lot 20, Block F, Gary's 4th Addition and the south side of the 36th Street South ROW. Send the approved legal description to Planning on a Word document, via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (3) All improvements shall be according to City Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the south 3 feet of the platted 15-foot setback that runs parallel to the north lot line of Lot 20, Block F, Gary's 4th Addition and the south side of the 36th Street South ROW. The approved legal description of the vacated portion of the platted setback, will only be where the proposed attached garage will be located, this will preserve the remaining platted 15-foot setback that runs parallel to the north lot line of Lot 20, Block F, Gary's 4th Addition and the south side of the 36th Street South ROW. Send the approved legal description to Planning on a Word document, via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (3) All improvements shall be according to City Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, HILLMAN seconded the motion, and it carried (12-0).

PUBLIC HEARINGS

4. **Case No.: ZON2009-00029** - 21st Century Motors Inc. and Consolidated Property Clifton F. Rolfe (owner); Melvin Watson (lessee/applicant), requested a City zone change from GO General Office to Limited Commercial for a restaurant on property described as:

The South 4 feet of Lot 13, all of Lots 15, 17 and 19 and the North 7 feet of Lot 21 and Lot 11 and the North 21 feet of Lot 13, Granville Park Addition to Wichita, Sedgwick County, Kansas, generally located south of 13th Street and east of Cleveland Avenue (1332 N. Cleveland Avenue).

BACKGROUND: This is a request for a zone change from GO General Office (“GO”) to LC Limited Commercial (“LC”) located south of 13th Street North and east of Cleveland Avenue (1332 N. Cleveland Avenue). The applicant/lessee wishes to convert the west half of the building into a restaurant. Currently the east half of the building is the office associated with used car sales on property zoned GC General Commercial (“GC”) located between the office building and 13th Street North. The GC and GO tracts are in the same ownership. The GO zoning was established in 1997 when the property was rezoned from B Multi-Family Residential (“B”) to GO and the tri-plex on the site was converted to office use.

A garage is located to the northeast on property zoned GC. The garage is used as part of the car sales operation. Single-family residences are located to the east on property zoned LC and SF-5 Single-Family Residential (“SF-5”). A single-family residence, on property zoned SF-5, adjoins the south property line. Vacant land zoned B and GC is located west of Cleveland Avenue. McAdams Park is located to the north of 13th Street, and the 13th and I-135 interchange is located a block to the east of the site.

CASE HISTORY: The property is platted as Lots 13, 15, 17, 19 and the north seven feet of Lot 21, Granville Park Addition, recorded April 20, 1887. The property was zoned GO in 1997 (Z-3235, approved June 9, 1997) when the other portion was developed with a car lot.

ADJACENT ZONING AND LAND USE:

NORTH:	GC, SF-5	Vehicle sales, park
SOUTH:	SF-	Single-family residential
EAST:	LC, SF-5	Garage, single-family residential
WEST:	B, GC	Vacant

PUBLIC SERVICES: The subject property has direct access onto Cleveland Avenue, an urban collector street. Traffic from Cleveland must go east at 13th Street North due to the divided median. Westbound traffic must circulate south to 12th Street North before heading west.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” The McAdams Neighborhood Revitalization Plan includes this property in the 13th Street corridor for neighborhood business startups (Goal 8.3). This request is in conformance with the comprehensive and the neighborhood revitalization plan. Landscape buffering, solid screening, and compatibility setbacks and standards are required from the residential property to the south and the east to mitigate impact of commercial use on the adjoining residences.

RECOMMENDATION: Based upon this information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Currently the east half of the building is the office associated with used car sales on property zoned GC located between the office building and 13th Street North. The GC and GO tracts are in the same ownership. The GO zoning was established in 1997 when the property was rezoned from B to GO and the tri-plex on the site was converted to office use. A garage is located to the northeast on property zoned GC. The garage is part of the car sales operation. Single-family residences are located to the east on property zoned LC and SF-5. A single-family residence, on property zoned SF-5, adjoins the south property line. Vacant land zoned B and GC is located west of Cleveland Avenue. McAdams Park is located to the north of 13th Street, and the 13th and I-135 interchange is located a block to the east of the site.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is suited for commercial uses allowed by GO zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The rezoning to LC zoning could increase the intensity of use and impacts on the adjacent residential uses, although the small scale of the potential use would tend to keep the more intensive types of LC uses from the site.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "local commercial." The McAdams Neighborhood Revitalization Plan includes this property in the 13th Street corridor for neighborhood business startups (Goal 8.3). This request is in conformance with the comprehensive and the neighborhood revitalization plan.
5. Impact of the proposed development on community facilities: The impact on the road system will be minimal.

DONNA GOLTRY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

J. JOHNSON moved, **B. JOHNSON** seconded the motion, and it carried (12-0).

SHERMAN (In @1:38 P.M.)

5. **Case No.: ZON2009-00030** - Ledgestone Homes, Inc., (applicant/owner) Ruggles & Bohm, P.A., c/o Chris Bohm (agent), requested a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

Lot 1, Block B, Roberts-Brenner-Klein Addition to Wichita, Sedgwick County, Kansas, generally located north of Pawnee Avenue, west of Seneca Street on the south side of Lotus Street.

BACKGROUND: The applicant requests a zone change from SF-5 Single-Family Residential ("SF-5") to TF-3 Two-Family Residential ("TF-3") on the undeveloped Lot 1, Block B, Roberts-Brenner-Klein Addition. The applicant proposes to build a duplex. Aerials of the area show the lot to be vacant since at least 1997. The site is located on the south side of Lotus Street. Lotus is a residential cul-de-sac on its

east side and intersects with the residential street Elizabeth Avenue on its west end. Lotus has no direct access to an arterial or collector streets.

The immediate area is characterized by SF-5 zoned single-family residences, built from the late 1920s through the 1970s. There is a SF-5 zoned church located northeast of the site, across Lotus Street. The exceptions to the neighborhood's SF-5 zoning is an adjacent, eastern TF-3 zoned single-family residence (built 1945, no record of a zone change) and the abutting eastern properties, which currently have two duplexes being built on them; ZON2008-52, SF-5 – TF-3, Lots 3 and 4, Block 1, Ledgestone Addition, recorded April 14, 2009. The existing and proposed TF-3 zoned properties occupy the south east, cul-de-sac end of Lotus, where there is adjacent LC Limited Commercial ("LC") zoning and development.

CASE HISTORY: The site is Lot 1, Block B, Roberts-Brenner-Klein Addition, recorded with the Register of Deeds May 18, 1959. The site is located in an area that was annexed into the City of Wichita between the years 1951 - 1960.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Church, single-family residences
SOUTH:	SF-5	Single-family residences
EAST:	TF-3	Two duplexes under construction, single-family residence
WEST:	SF-5	Single-family residences

PUBLIC SERVICES: The site has access to Lotus Street, a residential street. This portion of Lotus is paved and curbed with 60 feet of right-of-way (ROW), which ends in a cul-de-sac on its east side and intersects with the residential street, Elizabeth Avenue on its west side. The 2030 Transportation Plan shows no change to any of the above mentioned streets' status. The nearest traffic counts are at the Pawnee Avenue and Seneca intersection and they range from 18,308 to 22,465 average trips per day. Public water, sewer service and all other utilities are available to serve the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for "Urban Residential" development. The Urban Residential category includes all housing types found in the municipality, including duplexes. The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill, and higher density residential development, which maximize the public investment in existing and planned facilities and services. The objective is intended to be achieved through several strategies, including using zoning as tools to promote mixed-use development, higher density residential environments, and appropriate buffering. The proposed TF-3 zoning would promote development of a vacant property, into a duplex, which would maximize the public investment in existing and planned facilities and services. There are existing TF-3 zoned properties adjacent and abutting the east side of the subject site, therefore the proposed TF-3 zoning does not introduce TF-3 zoning into the area. No buffering is required by the UZC between single-family residential use and a duplex.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The immediate area is characterized by SF-5 zoned single-family residences, built from the late 1920s through the 1970s. There is a SF-5 zoned church located northeast of the site, across Lotus Street. The exceptions to the neighborhood's SF-5 zoning is an adjacent, eastern TF-3 zoned single-family residence (built 1945, no record of a zone change) and the abutting eastern properties, which currently have two duplexes being built on them; ZON2008-52, SF-5 – TF-3, Lots 3 and 4, Block 1, Ledgestone Addition, recorded April 14, 2009. The existing and proposed TF-3 zoned properties occupy the south east, cul-de-sac end of Lotus, where there is adjacent LC Limited Commercial ("LC")

zoning and development.

2. The suitability of the subject property for the uses to which it has been restricted: Although the undeveloped, 0.2-acre lot is zoned SF-5 and could be developed as single-family residential, aerials show it to be vacant since at least 1997. The proposed TF-3 zoning would promote development of a vacant property, into a duplex, which would maximize the public investment in existing and planned facilities and services. There are existing TF-3 zoned properties adjacent and abutting the east side of the subject site, therefore the proposed TF-3 zoning does not introduce TF-3 zoning into the area. There are two duplexes currently being built next door (east) to the subject site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Typical concerns expressed by neighbors in regards to duplex development is declining property values of the neighborhood brought on by poor maintenance of what is typically rental housing, i.e., the duplexes. Poor maintenance of rental property is not an absolute, nor is there any guarantee that a single-family residence will be maintained by its owner. Aerials show the site to have been vacant since at least 1997; building a duplex on the site would seem to be preferable to letting the site remain vacant. The two duplexes being built on the abutting eastern lots are single story, with lap siding and attached garages and are the newest residences/buildings in the neighborhood.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for "Urban Residential" development. The Urban Residential category includes all housing types found in the municipality, including duplexes. The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill, and higher density residential development, which maximize the public investment in existing and planned facilities and services. The objective is intended to be achieved through several strategies, including using zoning as tools to promote mixed-use development, higher density residential environments, and appropriate buffering. The proposed TF-3 zoning would promote development of a vacant property, into a duplex, which would maximize the public investment in existing and planned facilities and services. There are existing TF-3 zoned properties adjacent and abutting the east side of the subject site, therefore the proposed TF-3 zoning does not introduce TF-3 zoning into the area. No buffering is required by the UZC between single-family residential use and a duplex.
5. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted due to the minor increase in density.

BILL LONGNECKER, Planning Staff presented the Staff Report.

FOSTER asked about the e-mail regarding the Aberdeen Addition attached to the Staff Report. **LONGNECKER** said disregard that attachment. He also mentioned that the DAB recommended unanimous approval of the request.

MOTION: To approve subject to staff recommendation. .

B. JOHNSON moved, **FOSTER** seconded the motion, and it carried (13-0).

6. **Case No.: PUD2009-00004** - Dan B. and Kathy R. Schmidt (owner); Savoy Company, PA c/o Mark Savoy (agent), request the creation of a City PUD 32, the Lost Sock Planned Unit Development for commercial, greenhouse, and warehousing development on property described as:

A tract beginning 319.17 feet South of the Northeast corner of the Southeast Quarter of the Southeast Quarter; thence South 363 feet; thence West 560.17 feet; thence North 20.04 feet to the South line of the Northeast Quarter of the Southeast Quarter of the Southeast Quarter; thence West 100 feet; thence North 345.96 feet; thence East 659.92 feet to beginning, except the East 50 feet for road, in Section 21, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, generally located west of Hydraulic Street and 1/8 mile north of 55th Street South (5439 S. Hydraulic Street).

BACKGROUND: The applicant proposes PUD #32 The Lost Sock Planned Unit Development ("PUD"), generally located west of Hydraulic Street and 1/8 mile north of 55th Street South (5439 S Hydraulic Street). Current zoning of the property is SF-5 Single-Family Residential ("SF-5"), but past use was as a nursery and greenhouse, Meyer's Garden Spot. It has been closed for several years.

The proposed PUD is 5.06 acres and has six parcels. The PUD was selected as the means for structuring the land into a more cohesive future development pattern, capitalizing on the existing improvements to the extent possible, but moving forward toward a higher quality of development. Its location 1/8 mile away from the arterial intersection and north of the original "commercial corner" zoned LC Limited Commercial ("LC") in 1958 would not have made a case for LC or "OW" Office Warehouse ("OW") type zoning absent the existing buildings onsite. The use of warehouse type activities on the interior of the tract is based on the presence of existing structures that do not lend themselves to high traffic retail use. Setback and buffering requirements are unusual compared to normal commercial development due to the constraints from the existing land use ownership and development patterns. Building coverage varies among parcels due to existing building coverage and is greater than typical of CUPs for some parcels. Finally, design elements are proposed for phasing in as new or extensive redevelopment occurs over the course of reutilization of the land.

Existing buildings on the site include: the main retail building fronting Hydraulic (proposed Parcel 1), a greenhouse adjoining the retail building (proposed Parcel 3), a metal shed for storage behind the retail building (proposed Parcel 5) and an existing greenhouse in the southwest corner of the PUD (proposed Parcel 6). Two additional parcels would be allow for retail type use along Hydraulic (proposed Parcel 2) and possible office-warehouse type of use in the southwest corner of the PUD (proposed Parcel 4).

Proposed uses for Parcels 1-3 along Hydraulic would be: ATM; office, general; personal care service; personal improvement service; printing and copying, limited; recreation and entertainment, indoor; restaurant and retail, general. The intended use for Parcel 1 is a Laundromat (personal improvement service), and greenhouse is added as a proposed use for Parcel 3 to reutilize the large greenhouse already onsite.

Proposed uses for the three parcels in the west half of the PUD (Parcels 4-6) would be those uses allowed in the office warehouse district except storage, outdoor, and tattooing and body piercing. For Parcel 6, greenhouse would be added as a proposed use of the existing greenhouse.

The applicant has requested to exclude residential uses and some public, civic uses and commercial uses to clarify that these uses not be allowed by this PUD approval. The prohibited uses are: correctional placement residences, adult entertainment, sexually oriented businesses, nightclubs, event centers, entertainment establishments, private clubs, taverns, drinking establishments, tattooing and body piercing, and sale of liquor or cereal malt beverages.

Building coverage and floor area ratio varies among the parcels, primarily due to the existing

greenhouses. Parcels 1, 2, 4 and 5 would be the typical level of 30 percent building coverage and 35 percent for maximum gross floor area. Parcel 3 would be 56 percent and Parcel 6 would be 53 percent based on the size of existing buildings, but rebuilding on Parcel 6 would set new development at the typical standards. Maximum height is 35 feet throughout. Parking standards are per the Unified Zoning Code requirements for commercial uses (LC or OW) but stipulating that greenhouse use on a parcel only requires five spaces for the parcel.

Setbacks vary, which is permissible within a PUD, and are above minimum standards on the western edge (50 feet) and are 35 feet along Hydraulic. They are set at 15 feet and 25 feet along the north property line. The portion that is 25 feet is adjoining single-family lots, as is the case for two lots on the southwest corner also. To compensate for the narrower setback, a denser landscape buffer is suggested. A 6-foot wooden fence is called out for this border with SF-5. The area within the setbacks is shown as a drive aisle. Currently, the driveway is gravel and it may encroach along a residual strip of land owned by the nursery use to the south. Apparently this owner retained the eastern 10-foot strip of Lots 26-29, Block C, Rivendale Addition and the northern 27-foot strip of Lots 31 and 32 Block C, Rivendale Addition. The land is not useful by itself and complicates the driveway location for the PUD as well as the landscaping and screening separation for the adjacent residential lots.

Other PUD requirements will include phased in landscape improvements along Hydraulic, phased in architectural improvements to the existing buildings and standards for new construction, prohibiting overhead doors on the west 100 feet of Parcels 4, 5 and 6, consistency in lighting standards, specification of two access points, pedestrian connectivity to Hydraulic and within buildings onsite, internal cross-lot circulation. Signage would be two monument style signs along Hydraulic with a height of 25 feet and total size of 0.8 times linear frontage, with the signs prohibiting flashing, moving and signs that create the illusion of movement except for time and temperature signs, plus prohibiting wall signs on the west 100 feet of Parcels 4, 5 and 6. Window signage is restricted to 25 percent. Portable, off-site and billboard signs are prohibited.

The PUD is located along a major arterial, but is primarily surrounded by residential uses. River Oaks Manufactured Home Subdivision, zoned MH, is located directly east of Hydraulic, transitioning to River Oaks Manufactured Home Park zoned MH to the southeast. A single-family subdivision zoned SF-5 is to the northeast. The property to the north is zoned SF-5 and has a large lot residence plus a vacant tract along Hydraulic. Rivendale Addition, zoned SF-5 and developing with single-family residences, wraps the northwest corner, west side and southwest corner of the PUD. The property to the south has a residual strip of SF-5 about 40 feet wide, then is zoned LC to the corner of 55th Street South. It is used for growing nursery stock.

CASE HISTORY: The property is un-platted.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residence, vacant
EAST:	MH, SF-5	River Oaks Manufactured Home Subdivision, River Oaks Manufactured Home Park, single-family subdivision
SOUTH:	SF-5, LC	Agricultural (growing stock)
WEST:	SF-5	Rivendale Subdivision single-family residential

PUBLIC SERVICES: Hydraulic is a four-lane minor arterial. Average Annual Daily Traffic in 2006 was calculated at 9,200 vehicles per day southbound at 47th Street South, reducing to 7,097 at 55th Street South. Northbound volumes were 5,878 at 55th Street South, increasing to 11,856 at 47th Street South. All normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide," 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identify the site as "park and open space." The proposed PUD would not be in conformance with this designation, but the designation was

abrogated when the Rivendale Subdivision was allowed to be developed in low-density residential use instead of as a park. Therefore, the Land Use Guide is not relevant for the proposed application. A better measure is conformance with PUD criteria:

- (1) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
- (2) Allowing greater freedom in selecting the means to provide access, light, open space and design amenities;
- (3) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and
- (4) Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code.

The proposed PUD conforms to these standards by tailoring the use pattern to utilize the past development pattern, keep the more intensive retail activities along Hydraulic and adjacent to a nonresidential use (nursery stock) established on the LC tract. It allows certain OW type uses with buffering and screening and restriction in signage. Density would be reduced on Parcel 6 if redeveloped; design amenities will increase with respect to architecture and landscaping as the property redevelops. The PUD has striven to improve the site within the constraints of the existing development, although it will not be expected to attain the quality that would be easier to achieve on a pristine site.

RECOMMENDATION: Based on these comments and information available prior to the public hearing, Staff recommends the application be APPROVED subject to the following conditions:

1. Development shall be in substantial conformance with the plan and all conditions and requirements as shown on the approved PUD.
2. Landscaping along Hydraulic shall be phased in as new construction or redevelopment triggering compliance with the Landscape Ordinance occurs.
3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
4. The transfer of title of all or any portion of the land included within the Planned Unit Development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon the present owners, their successors and assigns, unless amended.
5. Prior to publishing the resolution establishing the PUD zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as PUD #32) includes special conditions for development on this property.
6. The applicant shall submit 4 revised copies of the PUD to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The PUD is located along a major arterial, but is primarily surrounded by residential uses. River Oaks Manufactured Home Subdivision, zoned MH, is located directly east of Hydraulic, transitioning to River Oaks Manufactured Home Park zoned MH to the southeast. A single-family subdivision zoned SF-5 is to the northeast. The property to the north is zoned SF-5 and has a large lot residence plus a vacant tract along Hydraulic. Rivendale Addition, zoned SF-5 and developing with single-family residences, wraps the northwest corner, west side and southwest corner of the PUD. The property to the south has a residual strip of SF-5 about 40 feet wide, then is zoned LC to the corner of 55th Street South. It is used for growing nursery stock.

2. The suitability of the subject property for the uses to which it has been restricted: The site is less suited to SF-5 use due to the existing structures and past land use pattern.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The nearby properties were developed knowing that these buildings were existing, although as nonconforming uses. The approval of the PUD will reestablish commercial uses on the site rather than force conversion of it to a lower intensity development. The effect is reduced by the PUD provisions and restrictions.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide," 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identify the site as "park and open space." The proposed use of this additional land would not be in conformance with this designation, nor is the adjacent single-family development (Rivendale Addition) established to the west.
5. Impact of the proposed development on community facilities: The PUD will increase traffic on Hydraulic, perhaps up to a 20 percent increase over current volumes, although the street is sized to handle this level of traffic volumes.

DONNA GOLTRY, Planning Staff presented the Staff Report. She referenced the DAB Memo hand out that recommended approval 8-0 subject to staff recommendations, but with an additional recommendation that there be no commercial trash hauling between the hours of 9:00 P.M. and 7:00 A.M. She said there are a few clarifications being made to the PUD on signage and limiting the height of lighting within 100 feet of the west property line. Concerns raised at the DAB meeting were about trash, noise and lighting. She said the agent and applicant were in agreement with lowering the lighting; however, they did have an issue with one of the recommendations in the Staff Report, and they wanted to bring this to the attention of the MAPC for consideration.

HILLMAN clarified that the applicant was in agreement with the request from the DAB on the commercial trash hauling hours.

GOLTRY said she believed so.

HENTZEN asked if there was a general policy regarding trash hauling at night, or was that decided on a case-by-case basis.

GOLTRY said she was not aware of a general policy.

DIRECTOR SCHLEGEL clarified that to the best of his knowledge there was no general policy; that the issue was decided on a case-by-case basis and also based on the proximity of the site to residential neighbors.

HENTZEN mentioned that based on location and vehicular traffic, sometimes trash has to be hauled at night.

MARK SAVOY, AGENT FOR THE APPLICANT said they are in agreement with staff comments except for one item. He also mentioned the DAB comments and that the DAB supported the application. He referenced Condition #2 and said they had an issue with landscaping along Hydraulic, which was the front property line. He stated that there was an existing public sidewalk that directly abutted the existing concrete parking, and that it was paved right up to the sidewalk. He said in order to meet the landscaping requirement, they will have to remove quite a bit of concrete, which will cause the applicant additional expense. He said they are willing to add some additional street trees and requested relief on this one condition.

HILLMAN said he used to do business in that area and that he tended to agree that it made sense at this particular location not to tear up the existing concrete or asphalt.

J. JOHNSON asked how many trees the applicant would be willing to add.

SAVOY said he believed typical street trees were every 40 feet. He said they would be willing to make that a tree every 20 feet.

GOLTRY referred to the site plan and pictures of the site.

DIRECTOR SCHLEGEL asked staff what the applicant would need to do to comply with Condition #2.

GOLTRY explained that as new buildings are added to a parcel, landscaping will need to be added if the value of the building is increased by 50% or if the expansion exceeds 30% of floor area on that parcel. She said parking lot screening is generally provided by shrubbery, or a combination of shrubbery, berming, and a low wall. In addition, she said there are a certain number of trees required in the parking lot's interior, to reduce the visual impact of the parking lot.

B. JOHNSON commented that the lot was completely screened on the east side by a fence, and asked if that made any difference on this case.

GOLTRY said the fence is across the street and that the screening they are currently discussing is to separate the parking lot from the sidewalk, both visually and for pedestrian traffic, to keep cars from encroaching on the sidewalk.

FOSTER referred to the picture of the sign on the north of the site and asked if there is room for required screening at that location.

GOLTRY said there is room for screening on the north side of the drive approach; however, there is not on the south side of the approach where concrete is against the sidewalk.

DAN SCHMIDT, APPLICANT said they are willing to add trees, but asked if bumper guards could also be used to prevent people from parking on the sidewalk.

GOLTRY said bumper guards were a possibility or there could be any combination of items including some low screening on portions of the area but not across the entire frontage. She said it could be broken up visually with strategic breaks in paving to break up the visual mass. She said there are a number of possible solutions.

There was brief discussion concerning the size of the concrete paving and **GOLTRY** commented that the concrete slabs are about 10' x 12' in size.

HILLMAN asked about surrounding zoning, and if there would be homes on three sides of the site.

SAVOY said south of the site is zoned Limited Commercial and currently houses a tree farm. He said north of the site is zoned Single-Family Residential with 2-3 acres. This is where a church has indicated they want to build. In the back part of the property north of the site is a residence, which they plan to plat around as a separate residential lot.

HILLMAN asked if they anticipated pedestrian traffic along the sidewalk to the laundromat.

SAVOY said the site is not really handy for pedestrian traffic.

B. JOHNSON asked how they felt about landscaping on the north, islands in the concrete on the south, and other suggestions.

SAVOY said they really didn't want to destroy the concrete slab and they also did not feel the area lends itself to installation of bushes along Hydraulic, such as the landscaping you see at most QuikTrips.

B. JOHNSON commented that breaking up the line of the area would help.

MOTION: To approve subject to staff recommendation and include the DAB recommendation of no trash hauling after 9:00 P.M. and before 7:00 A.M. and reduction in landscape requirements so that the applicant can take advantage of the parking in front of the site.

HILLMAN moved, **J. JOHNSON** seconded the motion.

SUBSTITUTE MOTION: To approve subject to staff recommendation and the DAB recommendations regarding trash hauling and lighting; that the north side of the property be landscaped per the Unified Zoning Code; bumper blocks be provided where existing concrete is adjacent to the existing sidewalk; that the number of street trees along Hydraulic be doubled; and that there be minor removal of paving at the southeast corner of the site to provide visual balance.

FOSTER moved, **HILLMAN** seconded the motion.

J. JOHNSON withdrew his second of the original motion.

MCKAY asked for clarification of the motion.

MITCHELL said although he thought **FOSTER'S** compromise was a good idea, he said he would not support anything that recommended removing concrete to plant trees.

The question was called and the substitute motion passed (11-2).
MITCHELL and **SHERMAN** – No.

NON-PUBLIC HEARING ITEMS

7. Other Matters/Adjournment

CHAIRMAN VAN FLEET referred to the memo attached to the agenda Re: American Planning Association Audio Conference on Wednesday, October 1, 2009 from 3:00-4:30 P.M.

DIRECTOR SCHLEGEL mentioned that Commissioners could receive the MAPC agenda and attachments via e-mail and print it out on their personal computer as a measure to cut printing and postage costs. **B. JOHNSON**, **MITCHELL** and **SHERMAN** volunteered to receive their agenda via e-mail.

The Metropolitan Area Planning Department informally adjourned at 2:10 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2009.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)